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Paper No. 4

CIENA CORPORATION
LEGAL DEPARTMENT
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LINTHICUM, MD 21090

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AUG 30 2001

OFFICE OF PETITIONS

In re Application of :
Niakam Kazemi : DECISION GRANTING
Application No. 09/827,979 : PETITION
Filed: April 6, 2001 :
Attorney Docket No. 362 :
:

This is a decision on the paper styled "Request For Corrected Filing Receipt" filed August 6, 2001, which is properly treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of April 6, 2001, rather than the presently accorded filing date of April 9, 2001.

Applicants request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on April 6, 2001, pursuant to the requirements of 37 CFR 1.10.

While the copy of the Express Mail label receipt no.

EL716682473US bears a handwritten "date-in" of 1848, it also includes a USPS date stamp receipt of April 6, 2001. Applicants are alleging that the date of mailing shown in the "date-in" is a U.S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is April 6, 2001.

The Office considers that date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date-In" on the Express Mail label, MPEP 513. However, in view of the conflicting dates on the label, a search of the USPTO's USPS Express Mail Information Database was made and confirms that the package bearing Express Mail label No. EL716682473US was accepted at 6:46 pm on April 6, 2001.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on April 6, 2001.

The petition is granted.

The application is being returned to Initial Patent Examination Division to await applicants' response to the Notice mailed June 4, 2001, and for correction of the filing date to April 6, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: USPTO'S USPS Express Mail Information